

Nadler Examines Faith-Based and Community Partnerships

Thursday, 18 November 2010

WASHINGTON, D.C. - Today, Congressman Jerrold Nadler (D-NY), Chair of the House Judiciary Subcommittee on the Constitution, Civil Rights and Civil Liberties, chaired a hearing on Faith-Based Initiatives: Recommendations of the President's Advisory Council on Faith-Based and Community Partnerships and Other Current Issues. On the heels of the President's recent executive order on this issue, this hearing provided Members with an opportunity to examine the Council's recommendations, including the status of implementation, as well as other legal or policy issues related to government partnerships with faith-based organizations.

The federal government often partners with nongovernmental organizations in order to provide a broad array of social services. When these nongovernmental partners are faith-based organizations, care must be taken to ensure that constitutional commitments guaranteeing equal protection of the laws and the free exercise of religion, and forbidding government establishment of religion, are met. Questions of whether government partnerships comply with these requirements, along with the adequacy of safeguards to monitor and ensure government compliance, have been the subject of considerable debate and concern.

By executive order issued shortly after he took office, President Obama established the President's Advisory Council on Faith-Based and Community Partnerships to, among other things, make recommendations for improving and strengthening social service partnerships between government and nongovernmental organizations. In its report of March 2010, the Advisory Council made several recommendations for enhanced guidance on permissible versus prohibited use of federal funds, improved monitoring of constitutional and other legal requirements accompanying federal funds, and greater safeguards for the religious liberty rights of the beneficiaries of federally funded programs.

Witnesses at the hearing were: Melissa Rogers, Director, Center for Religion and Public Affairs, Wake Forest University Divinity School; Douglas Laycock, Professor of Law and Religious Studies, University of Virginia School of Law; and, Reverend Barry Lynn, Executive Director, Americans United for Separation of Church and State.

The following is Nadler's opening statement:

"Today's hearing examines the current status of the Faith-Based and Community Partnerships, and, particularly, the report of the President's Advisory Council. Although I was gratified by the President's decision to take a fresh look at this important, but difficult, issue, and was especially appreciative of the outstanding work done by the members of the Advisory Council, I - like many of my colleagues - remain frustrated by the glacial pace of any reforms.

"Today's hearing is timely. Just yesterday, the Administration finally issued its revision of Executive Order 13279, setting out 'Fundamental Principles and Policymaking

Criteria for Partnerships with Faith-Based and Other Neighborhood Organizations.' It has been long anticipated, and it contains some very important reforms.

"I am glad that we have with us this distinguished panel which I hope will be able to provide the Subcommittee with their thoughts on the new Executive Order.

"Difficult issues remain, but what has been especially frustrating since President Bush first launched the initiative is that so many of the problems that the initiative sought to address simply never existed.

"I don't think any member of Congress, or indeed anyone involved in the delivery of social services from the neighborhood level on up, minimizes the critical contributions made by people of faith, and by social service providers that have a religious affiliation.

"Nor is there any question that these organizations have long worked with government, and administered publically funded programs, in ways that have done a great deal of good for the communities we represent and for the nation.

"And it is also without question that these partnerships existed and thrived long before the Faith-Based and Community Initiative. Despite some grandiose, if specious, claims to the contrary, these organizations were not barred from receiving public funding simply because of a religious affiliation, or because they had a religious name in their title.

"Every member of this Committee has no doubt worked with many religiously affiliated organizations in their districts and has helped get funding for all manner of social services, senior housing, and the like.

"But, if the Faith-Based and Community Initiative was a solution in search of a problem, it brought with it a host of real problems, many of which pose a real threat to the religious liberties of program participants and employees.

"Promises have been made about providing participants with secular or other religiously appropriate alternatives have gone unfulfilled. Without these alternatives, the patina of respect for the religious rights of those most in need, not to mention the legal pretense of constitutionality, is stripped away.

"Furthermore, the promise that this initiative would mobilize the armies of compassion has been broken precisely because some of the initiative's most vocal supporters have also been the first to cut off that army's supply lines by slashing funding for those very programs.

"As David Kuo, the Deputy Director of the White House Office of Faith-Based and Community Initiatives in the Bush Administration wrote,

"[The achievements of the Bush Faith-Based initiative] are a whisper of what was promised. Irony of ironies, it leaves the faith-based initiative specifically, and compassionate conservatism [sic] in general, at precisely the place Gov. Bush pledged it would not go; it has done the work of praising and informing but it has not been given "the resources to change lives." In short, like the hurting charities it is trying to help, the Initiative has been forced to "make bricks without straw."

"It is no secret that I have been extremely disappointed with this Administration's handling of these difficult issues. On the matter of ending employment discrimination in federally funded programs, about which the President was so eloquent in 2008, we have heard nothing. We haven't even been able to find out, for example, whether the Office of Legal Counsel memo asserting that RFRA creates a free exercise right to discriminate in employment in federally funded programs, is under review, much less what might be done with it.

"I realize that the employment issue was not within the Advisory Commission's mandate, but it is still of pressing importance to the members of this Committee.

"I regret that the Administration was unable to provide a witness today who might be able to answer our questions about the executive order, and about the Administration's progress on related issues. Nonetheless, I am pleased to welcome our panel today, and I look forward to their testimony. They are certainly no strangers to this Committee, and I have, over the years, had the privilege of working with each of them on many projects, starting with the Religious Freedom Restoration Act, which we passed the year I joined this House."

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